IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 8TH JUNE 2007 / 18TH JYAISHTA 1929

WP(C).No. 15134 of 2007(B)

PETITIONERS:

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1. THE BOARD OF DIRECTOR OF THE MUKKOM SERVICE CO-OPERATIVE BANK LTD NO.F.1241, MUKKOM P.O.,KOZHIKODE,REPRESENTED BY ITS PRESIDENT.

2. THE MUKKOM SERVICE CO-OPERATIVE BANK LTD. NO.F.1241,MUKKOM P.O., REPRESENTED BY ITS SECRETARY.

BY ADV. SRI.V.G.ARUN
SRI.T.R.HARIKUMAR

RESPONDENT:

THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL), KOZHIKODE.

BY GOVERNMENT PLEADER (SHRI P. N. SANTHOSH)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. M. JOSEPH, J.

W.P.C. NO. 15134 OF 2007 B

Dated this the 8th June, 2007

JUDGMENT

Petitioners challenge Ext.P7. Ext.P7 is dated 2.4.2007 directing enquiry to be held by a Unit Inspector. Two specific arguments are raised by the learned counsel for the petitioners. According to him, there is Ext.P6 Enquiry Report preceded by an enquiry which reveals that the Board of Directors and Officers of the Society are not guilty. He would, therefore, contend that there is absolutely no warrant for ordering a fresh enquiry. He would submit that this is directed to exonerate Departmental Officers who were found guilty. He would further submit that Ext.P6 enquiry was made by an Officer in the rank of Deputy Registrar, while Ext.P7 reveals that a fresh enquiry is to be conducted by the Unit Inspector. I heard the learned Government Pleader also. He would point out that this is only an enquiry. Having regard to the fact that in Ext.P6 it is found that nobody is guilty and more appropriately, neither the

Members of the Board of Directors, nor the employees of the Society were found guilty, guilt has not been pointed against any particular Officer. This enquiry was found to be unsatisfactory, he submits and it was in such circumstances that a fresh enquiry was ordered by Ext.P7.

2. I am not much impressed by the contention of the petitioners that after Ext.P6 Report was submitted, it is not open to the Department to order enquiry as per Ext.P7. Apparently, the Report is found unsatisfactory. It is not as if when an Enquiry Report is made, it is always incumbent on the part of the Department to straight-away accept the same. It is open to the Department, if it finds that the enquiry is unsatisfactory, to order a fresh enquiry and to search for the truth. In such circumstances, I am not impressed by the contention of the counsel for petitioners that Ext.P7 is in the teeth of Ext.P6.

3. But, I must agree with the contention of the counsel for petitioners that an enquiry, if it is to be ordered, it should not be conducted by an Officer below the rank of Deputy Registrar. In

such circumstances, Ext.P7 cannot be sustained only for the reason that by Ext.P7, an Unit Inspector is appointed. Accordingly, Ext.P7 is quashed. Leaving liberty to the respondent to appoint an Officer not below the rank of Deputy Registrar, this Writ Petition is disposed of. Of course, if there are any contentions apart from the contentions which I have dealt with in this Judgment, it is open to the petitioners to urge such contentions when the Enquiry Officer is appointed.

K. M. JOSEPH, JUDGE

kbk.